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to entitle to recovery. *Bloomfield v. Maloney*, 142 N. W. (Mich.) 785; *Elkins v. Board of Commissioners of Wyandotte County*, 91 Kan. 518; *Stone v. Wickliffe*, 106 Ky. 252. Even if the criminal is killed, resisting arrest, and never brought to trial. *Smith v. State*, 151 Pac. (Nev.) 512. The principal case is quite evidently decided along the stricter lines of the former of the above groups; dissenting Judge Bijur seeming to prefer the interpretation of the second. Clearly the dominant object of the offer—the return of the rings—has been achieved by the plaintiff. Nevertheless *she* did not return them, nor cause them to be returned *to the office*, as stipulated. Furthermore, though doing all that lay within her power, she did not herself complete the process she set in motion. C. B.

TRUSTS—CONSTRUCTIVE TRUST—DESTRUCTION OF CODICIL BY TESTATOR RELYING ON PROMISE OF DEVISEE.—*THARP V. THARP*, 40 LAW TIMES, III.—Testator limited his estate to use of defendant for life, with power of appointment in defendant, and in default of appointment to plaintiff. Subsequently he executed a codicil to the will omitting the power of appointment. Defendant promised the testator's wife that he would appoint to the plaintiff, if the power was given him. Testator, relying on this promise, destroyed the codicil. Defendant appointed to himself. *Held*, the plaintiff is entitled to a declaration that defendant holds for him.

Whenever title to realty or personalty is obtained by one under such circumstances as would render his retention of it a fraud on another who in justice is entitled thereto, equity will impress the subject matter with a trust. *Gilpatrick v. Glidden*, 81 Me. 137; *Bacon v. Bacon*, 150 Cal. 477. Where one, on the making of a will, or thereafter, expressly or impliedly promises testator that he will hold for a particular purpose, and the testator relies thereon, equity will raise a trust to enforce the promise. *Jones v. Badley*, L. R. 3 Ch. 362; *Benbrook et al. v. Yancy*, 96 Miss. 536; *Whitehouse v. Bolster*, 95 Me. 458. Where an heir by his promises to use the property in a particular manner prevents the making of a will, whereby an intestacy results, equity will create a trust. *Grant v. Bradstreet*, 87 Me. 583. The same is held where one prevents a change in a will. *Dowd v. Tucker*, 41 Conn. 197. Actual fraudulent intent at the time of the representation is not necessary. *Powell v. Yearance*, 73 N. J. Eq. 117. The novelty of the principal case lies in the fact that a power of appointment was left in the will at the instance of the donee, while in the cases cited a direct gift of property was either made or withheld at the instance of the person who expected to reap the benefits.

R. C. W.

WILLS—ABROGATION BY AGREEMENT—PRESUMPTION—LAPSE OF TIME.—*HENDERSON V. BISHOP*, 95 ATL. (PA.) 663.—Where decedent's widow and heirs, claiming that they were the only parties interested in his estate, agreed in a writing, which was duly recorded, that the will should be destroyed and that they should take under the intestate laws, and for more than thirty years thereafter neither the agreement nor the pos-